



University of Pittsburgh

School of Law
Veterans Practicum

Barco Law Building
3900 Forbes Avenue
Pittsburgh, PA 15260
412-648-1285

September 8, 2015

Office of the Judge Advocate General (Code 14)
1322 Patterson Avenue, S.E.
Washington Navy Yard, D.C. 20374-5066

Re: FOIA Appeal

Dear Sir or Madam:

I am writing to appeal the attached decision to withhold Admiral Michael Miller's retirement grade determination and to redact information in the Secretary of the Navy's letter of censure dated January 23, 2015.

The attached decision states there are no responsive records relating to the retirement grade determination. However, an article in the Navy Times dated July 21, 2015 states "the Navy disclosed the retirement grade determinations for the admirals, a judgment of the last paygrade at which they served honorably. Miller retires as a vice admiral after 41 years of service." Accordingly, responsive records do exist.

Relative to the redactions in the letter of censure, Admiral Miller was a senior flag level officer. The letter is final agency action, and not predecisional, and given Admiral Miller's very senior rank and the violation of public trust found by the Secretary, there is no basis to withhold any portion of the letter based upon issues of personal privacy,

Sincerely,

(b) (6)

Jason W. Manne
Adjunct Professor of Law

RECEIVE BY (PRINT).

DATE REC.

9/16/15

Signature

(b) (6)



DEPARTMENT OF THE NAVY
HEADQUARTERS
NAVAL CRIMINAL INVESTIGATIVE SERVICE
27130 TELEGRAPH ROAD
QUANTICO VA 22134-2253

5720 2015-005213
SER00LJF/15U0944

JUL 15 2015

Dr. Jason W. Manne
Pitt Law Veterans Practicum
3900 Forbes Avenue
Pittsburgh, PA 15260

Dear Dr. Manne:

This further responds to your April 12, 2015 Freedom of Information Act request seeking Navy records related to Admiral Michael Miller and his involvement with Glenn Defense Marine Asia (GDMA), to include the letter of censure, retirement grade determination, final report or recommendation of the Consolidated Disposition Authority (CDA), and NCIS records. Reference is made to our April 15, 2015 letter to you and the administrative appeal decisions dated May 19, 2015 and June 30, 2015.

Following coordination within the Navy and consultation with the Department of Justice, all releasable responsive records are enclosed. Review of the documents reveals that they contain third party privacy and other information subject to FOIA exemption. Accordingly, we must partially deny your request and withhold this information pursuant to the FOIA provisions 5 U.S.C. § 552(b)(6), (b)(7)(C), (b)(5), (b)(7)(A), and (b)(7)(E). An explanation of various FOIA exemptions is attached.

The CDA recommendation is withheld in its entirety under 5 U.S.C. § 552(b)(5), based on the deliberative process privilege which protects candid advice prior to final agency decisions. Portions of the recommendation would also be subject to other exemptions listed above. Regarding your request for the retirement grade determination, there are no responsive records. However, you are welcome to file an additional request for any records produced subsequent the date you made this request.

I am advising you of your right to appeal any adverse determinations. Your appeal must be postmarked within 60 calendar days from the date of this letter and should be addressed to the Secretary of the Navy's designee: Office of the Judge Advocate General, (Code 14), 1322 Patterson Avenue, S.E., Suite 3000, Washington Navy Yard, D.C. 20374-5066. The envelope and letter must bear the annotation "FOIA Appeal." Please include a copy of your original request and this partial denial letter with your appeal.

If you have any questions regarding this matter, please contact our office at (b) (6) or via electronic mail at ncisfoia@navy.mil.

Sincerely,

(b) (6)

Lieutenant, Judge Advocate
General's Corps, U.S. Navy

Encl

- (1) Released documents
- (2) Explanation of FOIA Exemptions



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